

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
Plaintiff,

v.

VICKI Y. COX-MAXWELL, LARRY
MAXWELL, JADT DEVELOPMENT
GROUP, LLC, RIVER VIEW HOMES,
LLC, FRANKLIN NATIONAL BANK
OF MINNEAPOLIS, MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., MINNESOTA
DEPARTMENT OF REVENUE, JOHN
DOE, MARY ROE, XYZ
CORPORATION, AND ABC
PARTNERSHIP,

Defendants

Civil No. 09-0914 (JRT/AJB)

**FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER FOR JUDGMENT**

Steven Little, **COLEMAN HULL & VAN VLIET, PLLP**, 8500 Normandale
Lake Boulevard, Suite 2110, Minneapolis, MN 55437, for plaintiff.

Roylene Champeaux, Assistant United States Attorney, **OFFICE OF THE
UNITED STATES ATTORNEY**, 300 South Fourth Street, Suite 600,
Minneapolis, MN 55415, for Defendant United States of America.

The above-captioned matter came before the undersigned on September 8, 2010
pursuant to a settlement stipulation between Plaintiff Mortgage Electronic Registration
Systems, Inc., as nominee for Countrywide Home Loans, Inc. (“MERS”) and Defendant
United States of America (“United States”).

Based on the files, records and proceedings herein, the court hereby makes the
following:

FINDINGS OF FACT

1. This action involves real property located in Hennepin County, Minnesota legally described as:

Unit No. 2309, CIC No. 1173, River View Homes I Townhomes
(the “Property”).

2. On April 7, 2004, Defendant Vikki Y. Cox-Maxwell (Vicki Cox-Maxwell”), as mortgagor and as security for financing the purchase of the Property, executed a mortgage in favor of MERS, as mortgagee, in the original principal amount of \$504,905.00 which was recorded with the Hennepin County Recorder on July 21, 2004, as document number 8401589 (the “Mortgage”).

3. The Mortgage contains an incorrect legal description in that it identifies “Unit 4” in place of “Unit 2309.”

4. The United States has an interest in the Property pursuant to a federal tax lien against Vicki Cox-Maxwell that was assessed on June 12, 2006, in the amount of \$11,865.36. The United States properly recorded a Notice of Federal Tax Lien in the Office of the Hennepin County Recorder on August 7, 2006, as document number 8841506 (the “Vicki Cox-Maxwell Federal Tax Lien”).

5. The United States has further interests in the Property pursuant to federal tax liens against Defendant Larry Maxwell (“Larry Maxwell”) which were assessed and properly recorded as follows:

a. Notice of Federal Tax Lien assessed on March 1, 2004, in the original principal amount of \$101,651.77, recorded on August 2, 2005, as Document No. 8626345;

b. Notice of Federal Tax Lien assessed on August 22, 2005, in the original principal amount of \$47,535.77, recorded on December 6, 2005, as Document No. 8714522;

c. Notice of Federal Tax Lien assessed on June 12, 2006, in the original principal amount of \$11,865.36, recorded on August 7, 2006, as Document No. 8841506 (collectively, the “Larry Maxwell Tax Liens”).

6. The United States is the holder of a judgment against Larry Maxwell, in the original principal amount of \$37,592.24 dated September 25, 2001 and originally docketed on September 28, 2001, which judgment was last renewed on February 29, 2008 as Document No. 9103789 (the “Judgment”).

7. Based on the incorrect legal description contained in the Mortgage, the United States claims the Vicki Cox-Maxwell Federal Tax Lien, the Larry Maxwell Tax Liens and the Judgment have priority over the Mortgage. Plaintiff claims that the Mortgage, as drafted, is a perfected mortgage with priority over the Vicki Cox-Maxwell Federal Tax Lien, the Larry Maxwell Tax Liens and the Judgment.

8. The parties desire to avoid further costs of litigation among the parties and further desire to fully and finally settle and resolve the issues raised in this action with respect to the claims by and between the Plaintiff and the United States.

9. Defendants JADT Development Group, LLC, River View Homes, LLC, and Franklin National Bank were dismissed by Order for Dismissal dated June 29, 2009 [Docket No. 14].

10. The remaining Defendants have failed to file answers or otherwise appear in this Action.

CONCLUSIONS OF LAW:

1. MERS is entitled to reformation of the Mortgage to include the following legal description of the Property:

Unit No. 2309, CIC No. 1173, River View Homes I
Townhomes, Hennepin County, Minnesota.

2. As between MERS and United States of America, the Mortgage as reformed is valid, enforceable, and a fully perfected lien against the Property according to its terms, with priority over the the Larry Maxwell Tax Liens described herein.

ORDER FOR JUDGMENT:

1. Judgment is hereby ordered consistent with the foregoing Conclusions of Law.

2. The Hennepin County Recorder is authorized to accept a certified copy of this Order for recording against the real property described in Paragraph 1 of these Findings of Fact.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: September 8, 2010
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge